

THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE HONORABLE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Application of

Mariana Benitez Pelaez, et al.

Application No.: 10/758,362

Examiner: MD S. Elahee

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Docket No.: LUTZ 2 00269

Case Name/No. Benitez-Pelaez 20-
2-1-1

For: **SYSTEM AND METHOD FOR PLAYING TONES AND ANNOUNCEMENTS
IN MULTIMEDIA COMMUNICATIONS NETWORKS**

BRIEF ON APPEAL

Appeal from Group 2614

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I. REAL PARTY IN INTEREST

The real party in interest for this appeal and the present application is Lucent Technologies Inc., by way of an Assignment recorded in the U.S. Patent and Trademark Office at Reel 015507, Frame 0839.

II. RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-18 are on appeal.

Claims 1-18 are pending.

Claims 1-18 are rejected.

IV. STATUS OF AMENDMENTS

No Amendment After Final Rejection has been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The invention of claim 1 is directed to a method of assigning responsibility for playing tones and announcements to a network element in a multimedia communications network 10 having a plurality of network elements (see FIGS. 1-4; paragraphs [0063] to [0066]). The method includes receiving a call from a caller 60 to a subscriber 40 at a first network element 22, as part of the call a tone or an announcement needs to be played to the subscriber 40 (step 102; FIGS. 1, 3; paragraph [0064]); determining whether a second network element 24 is able to play the tone or the announcement (step 106; FIGS. 1, 3; paragraph [0064]); playing the tone or the announcement through the second network element 24, if the second network element 24 is able to play the tone or announcement (step 106; FIGS. 1, 3; paragraph [0064]); attempting to locate a third network element 30 that is able to play the tone or the announcement, if the second network element 24 is not able to play the tone or the announcement (step 108; FIGS. 1, 4; paragraph [0065]); and playing the tone or the announcement through the third network element 30, if the third network element 30 is located (step 120; FIGS. 1, 4; paragraph [0066]).

Claim 2 adds that the first network element 22 comprises a call session control function (FIG. 1; paragraphs [0053] to [0054]).

Claim 4 adds that the third network element 30 comprises a multimedia resource function processor (FIG. 1; paragraphs [0054] and [0057]).

The invention of claim 10 is directed to a system for assigning responsibility for playing tones and announcements to a network element in a multimedia communications network 10 having a plurality of network elements (see FIGS. 1-4;

paragraphs [0063] to [0066]). The system includes a first network element 22 for receiving a call from a caller 60 to a subscriber 40, as part of the call a tone or an announcement needs to be played to the subscriber 40 (step 102; FIGS. 1, 3; paragraphs [0053], [0054], and [0064]); determining means 22 for determining whether a second network element 24 is able to play the tone or the announcement (step 106; FIGS. 1, 3; paragraphs [0053], [0054], [0055], and [0064]); means 22 for playing the tone or the announcement through the second network element 24, if the second network element 24 is able to play the tone or announcement (step 106; FIGS. 1, 3; paragraphs [0053], [0054], [0055], and [0064]); attempting means 22 for attempting to locate a third network element 30 that is able to play the tone or the announcement, if the second network element 24 is not able to play the tone or the announcement (step 108; FIGS. 1, 4; paragraph [0065]); and playing the tone or the announcement through the third network element 30, if the third network element 30 is located (step 120; FIGS. 1, 4; paragraph [0066]).

Claim 11 adds that the first network element 22 comprises a call session control function (FIG. 1; paragraphs [0053] to [0054]).

Claim 13 adds that the third network element 30 comprises a multimedia resource function processor (FIG. 1; paragraphs [0054] and [0057]).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review:

1) Claims 1, 2, 4, 6-8, 10, 11, 13, and 15-17 are rejected as having been obvious under 35 U.S.C. §103(a) over Milewski (US 6,519,326) in view of Lynn (US 5,541,981).

2) Claims 3, 5, 9, 12, 14, and 18 are rejected as having been obvious under 35 U.S.C. §103(a) over Milewski in view of Lynn and further in view of Deshpande (US 2006/0029048).

VII. ARGUMENT

3G networks include several network components that are adapted to play tones and announcements, such as call failure, call setup, special services tones and announcements. In 3G systems, both the media gateways (MGW) and the media resource function processors (MRFP) have the capability of playing tones and announcements. However, the 3G standards as defined in UMTS (universal mobile telecommunications system) Release 5, the MRFP plays tones and announcements, on instructions from the CSCF via the multimedia resource function controller (MRFC). In addition, there are fixed rules to route announcements and tones. However, there may be situations when the MRFP cannot apply the treatment (e.g., tones and announcements) to a call, as required.

Thus, there is a need for a system and method that provides both the MGW and the MRFP with the flexibility to play both announcements and tones. Furthermore, instead of following fixed rules on which component provides what tone or announcement in every call scenario, it would be desirable to allow the CSCF (call session control function) to determine where to play tones and announcements.

To summarize, if the originating MGW is running out of resources (or is congested) when required to play a tone or announcement, the CSCF is able to provide another source for the tone or announcement. This process is implemented through software on the CSCF that makes a decision based upon the constant monitoring of the various resources in the MGWs and the MRFPs of the network. This process greatly increases the probability of being able to play tones and announcements for subscribers under any circumstances, thus providing more stable communication services for all

subscribers. Further, it enables more efficient utilization of DSP resources within the network, thereby reducing the cost of additional DSP resources required during peak hours, while distributing the tone/announcement load among the different components in the network.

A. Claims 1, 2, 4, 6-8, 10, 11, 13, and 15-17 Would Not Have Been Obvious Over Milewski in View of Lynn

1. Claims 1, 2, 4, 6-8

Independent claim 1 recites a method of assigning responsibility for playing tones and announcements to a network element in a multimedia communications network 10 having a plurality of network elements. The method includes receiving a call from a caller 60 to a subscriber 40 at a first network element 22, as part of the call a tone or an announcement needs to be played to the subscriber 40; determining whether a second network element 24 is able to play the tone or the announcement; playing the tone or the announcement through the second network element 24, if the second network element 24 is able to play the tone or announcement; attempting to locate a third network element 30 that is able to play the tone or the announcement, if the second network element 24 is not able to play the tone or the announcement; and playing the tone or the announcement through the third network element 30, if the third network element 30 is located.

Applicants submit that neither Milewski nor Lynn discloses at least the aforementioned features of independent claim 1. In particular, it is submitted that the primary citation to Milewski does not disclose the claimed steps of receiving a call from a caller 60 to a subscriber 40 at a first network element 22, as part of the call a tone or an announcement needs to be played to the subscriber 40; determining whether a

second network element 24 is able to play the tone or the announcement; playing the tone or the announcement through the second network element 24, if the second network element 24 is able to play the tone or announcement; attempting to locate a third network element 30 that is able to play the tone or the announcement, if the second network element 24 is not able to play the tone or the announcement; and playing the tone or the announcement through the third network element 30, if the third network element 30 is located. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Milewski and Lynn is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The primary citation to Milewski relates to a method of telephone voice ringing using a transmitted voice announcement. (Milewski, Fig.1). In particular, the calling party's telephone 110 communicates with the called party's telephone 160 through a Public Switched Telephone Network (PSTN) 130.

The Office Action contends that the method described as being used to replace the traditional telephone ring that signals receipt of an incoming phone call with a short verbal announcement that indicates the recipient has received an incoming phone call meets the aforementioned features of independent claim 1. (Office Action, page 4). This contention is respectfully traversed.

Milewski, at column 3, lines 7-24, expressly teaches that a calling party who desires to place a phone call to a called party and who desires to signal the receipt of the incoming call to the called party with a voice-announcement call request signal, or "voice-ring," utilizes the calling party's PC 105 (i.e., part of the calling party's communications device 100) to generate and transmit the voice announcement to the called party's PC 155 (i.e., part of the called party's communication device 150). The

calling party utilizes a microphone 107 to compose a voice announcement for transmission to the called party's PC 155. The calling party speaks the voice announcement that is to serve as the voice-ring by speaking into microphone 107. The PC 105 can either record and store the voice announcement and then transmit it to the called party's PC 155 as an audio file or can directly transmit the voice announcement to the PC 155 as a data stream without first recording the announcement. Thus, it is not required that the voice announcement be first recorded by the PC 105 before transmission to the called party's PC 155.

Of course, pre-recorded voice announcements could be stored in a database 108 whereby the calling party could select a pre-recorded voice announcement for transmission to the called party's PC 155. (Milewski, column 3, lines 25-46.) But this does not correspond in any way to the step of determining whether a second network element is able to play the tone or the announcement as recited in claim 1.

Moreover, the focus in Milewski is the steps taken at the calling party's end and with the calling party's communication devices 100, including the calling party's telephone 110 and PC 105, not in the network itself (120 and 130 in FIG. 1). There is simply no teaching or suggestion of receiving a call at a network element (the called party's telephone 160 described in Milewski is not a first *network element*, but rather part of the called party's *communication device 150*, the other part being the PC 155, as described at column 2, lines 54-59, of Milewski) and then determining how to allocate resources such as tones (there is no discussion of playing tones in Milewski) and announcements with respect to a number of *network elements*. More particularly, the procedures in Milewski are not performed by any *network elements*. Instead, they are

performed by the *communication devices*. Accordingly, Milewski cannot reasonably be interpreted to disclose the aforementioned features of independent claim 1.

The secondary citation to Lynn relates to an automated announcement system and is cited for its alleged disclosure of playing the tone or the announcement through the second network element if the second network element is able to play the tone or announcement as well as attempting to locate a third network element that is able to play the tone or announcement if the second network element is not able to play the tone or announcement. (Office Action, page 5). Applicants submit that Lynn does not add anything that would remedy the aforementioned deficiencies in Milewski.

Furthermore, Lynn does not teach the steps of playing the tone or the announcement through the second network element if the second network element is able to play the tone or announcement as well as attempting to locate a third network element that is able to play the tone or announcement if the second network element is not able to play the tone or announcement.

Lynn discloses the following:

In accordance with yet another aspect of the present invention, an announcement system for playing recorded audio messages comprises a storage device for storing a plurality of recorded audio messages, an audio output device for playing selected ones of the recorded audio messages, and a control device coupled to the storage device and to the audio output device for selecting individual ones of the recorded audio messages for playing by the audio output device. A microphone is coupled to the audio output device for allowing a live announcement to be made using the audio output device, and an interface circuit is connected between the microphone and the control device for inhibiting the playing of a recorded audio message when the microphone is in use.

However, there is no mention of network elements being used. Rather, all of the steps in Lynn are performed at the automated announcement system 10, which is shown in FIG. 1.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 1 (and its corresponding dependant claims 2-9) under 35 U.S.C. §103 are respectfully requested.

2. Claim 2

Dependent claim 2 is separately patentable as well. Claim 2 adds that the first network element 22 comprises a call session control function or CSCF. The CSCF is shown in FIG. 1 and described in paragraphs [0053] to [0054] of the specification.

The Office Action alleges that Milewski teaches that the first element comprises a call session control function (referencing FIG. 1). Applicants note, however, that no such call session control function is shown in FIG. 1 nor described in Milewski. Indeed, since Milewski relates to an integrated services network 120 and to the Public Switched Telephone Network (PSTN) 130 that is not surprising. Paragraph [0053] of the specification describes some of the functions of the CSCF:

The CSCF 22 supports and controls multimedia sessions. The CSCF 22 invites elements such as the MGCF 26 and the MRFC 32 to call sessions to control the establishment and maintenance of bearer paths for call sessions by adding, modifying or deleting appropriate bearer paths for respective call sessions. The CSCF 22 is the signaling entity for call session control. It manages sessions by using SIP and/or other appropriate call/session establishment protocols, and it provides features and services and coordinates with other network elements for session control, service control and resource allocation.

Accordingly, favorable reconsideration and withdrawal of the rejection of claim 2 under 35 U.S.C. §103 are respectfully requested.

3. Claim 4

Dependent claim 4 is separately patentable as well. Claim 4 adds that the third network element 30 comprises a multimedia resource function processor (or MRFP).

The MRFP is shown in FIG. 1 and described, for example, in paragraphs [0054] and [0057] of the specification.

The Office Action alleges that Milewski teaches that the first element comprises a multimedia resource function processor (referencing column 3, line 47, to column 4, line 7). Applicants note, however, that no such multimedia resource function processor is described in Milewski. Indeed, since Milewski relates to an integrated services network 120 and to the Public Switched Telephone Network (PSTN) 130 that is not surprising. The called party's PC 155 cannot function as an MFRP. Paragraph [0057] of the specification describes some of the functions of the MRFP:

The MGW 24 and the MRFP 30 include various types of resources, such as: (1) DSP (digital signal processing) resources, which provide conversion from one payload type to another and are responsible for providing tones and announcements, echo cancellation, and silence suppression; (2) IP resources, which are essentially IP terminations within the MGW 24 and MRFP 30 function and are referred to generally as ephemeral terminations; (3) ATM resources, which are essentially ATM terminations within the MGW 24 function and are referred to generally as ephemeral terminations; and (4) TDM resources, which are essentially TDM terminations within the MGW 24 function and are referred to generally as physical terminations.

Accordingly, favorable reconsideration and withdrawal of the rejection of claim 4 under 35 U.S.C. §103 are respectfully requested.

4. Claims 10, 11, 13, and 15-17

Independent claim 10 recites a system for assigning responsibility for playing tones and announcements to a network element in a multimedia communications network 10 having a plurality of network elements. The system includes a first network element 22 for receiving a call from a caller 60 to a subscriber 40, as part of the call a tone or an announcement needs to be played to the subscriber 40; determining means

22 for determining whether a second network element 24 is able to play the tone or the announcement; means 22 for playing the tone or the announcement through the second network element 24, if the second network element 24 is able to play the tone or announcement; attempting means 22 for attempting to locate a third network element 30 that is able to play the tone or the announcement, if the second network element 24 is not able to play the tone or the announcement; and playing the tone or the announcement through the third network element 30, if the third network element 30 is located.

Applicants submit that neither Milewski nor Lynn discloses at least the aforementioned features of independent claim 10. In particular, it is submitted that the primary citation to Milewski does not disclose the claimed features of a first network element 22 for receiving a call from a caller 60 to a subscriber 40, as part of the call a tone or an announcement needs to be played to the subscriber 40; determining means 22 for determining whether a second network element 24 is able to play the tone or the announcement; and means 22 for playing the tone or the announcement through the second network element 24, if the second network element 24 is able to play the tone or announcement. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Milewski and Lynn is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The primary citation to Milewski relates to a method of telephone voice ringing using a transmitted voice announcement. (Milewski, Fig. 1). In particular, the calling party's telephone 110 communicates with the called party's telephone 160 through a Public Switched Telephone Network (PSTN) 130.

The Office Action contends that the method described as being used to replace the traditional telephone ring that signals receipt of an incoming phone call with a short verbal announcement that indicates the recipient has received an incoming phone call meets the aforementioned features of independent claim 10. (Office Action, page 4). This contention is respectfully traversed.

Milewski, at column 3, lines 7-24, expressly teaches that a calling party who desires to place a phone call to a called party and who desires to signal the receipt of the incoming call to the called party with a voice-announcement call request signal, or "voice-ring," utilizes the calling party's PC 105 (i.e., part of the calling party's communications device 100) to generate and transmit the voice announcement to the called party's PC 155 (i.e., part of the called party's communication device 150). The calling party utilizes a microphone 107 to compose a voice announcement for transmission to the called party's PC 155. The calling party speaks the voice announcement that is to serve as the voice-ring by speaking into microphone 107. The PC 105 can either record and store the voice announcement and then transmit it to the called party's PC 155 as an audio file or can directly transmit the voice announcement to the PC 155 as a data stream without first recording the announcement. Thus, it is not required that the voice announcement be first recorded by the PC 105 before transmission to the called party's PC 155.

Of course, pre-recorded voice announcements could be stored in a database 108 whereby the calling party could select a pre-recorded voice announcement for transmission to the called party's PC 155. (Milewski, column 3, lines 25-46.) But this not correspond in any way to the step of determining whether a second network element is able to play the tone or the announcement as recited in claim 10.

Moreover, the focus in Milewski is the steps taken at the calling party's end and with the calling party's communication devices 100, including the calling party's telephone 110 and PC 105, not in the network itself (120 and 130 in FIG. 1). There is simply no teaching or suggestion of receiving a call at a network element (the called party's telephone 160 described in Milewski is not a first *network element*, but rather part of the called party's *communication device* 150, the other part being the PC 155, as described at column 2, lines 54-59, of Milewski) and then determining how to allocate resources such as tones (there is no discussion of playing tones in Milewski) and announcements with respect to a number of network elements. More particularly, the procedures in Milewski are not performed by any *network elements*. Instead, they are performed by the *communication devices*. Accordingly, Milewski cannot reasonably be interpreted to disclose the aforementioned features of independent claim 10.

The secondary citation to Lynn relates to an automated announcement system and is cited for its alleged disclosure of means for playing the tone or the announcement through the second network element if the second network element is able to play the tone or announcement as well as attempting means for attempting to locate a third network element that is able to play the tone or announcement if the second network element is not able to play the tone or announcement. (Office Action, page 5). Applicants submit that Lynn does not add anything that would remedy the aforementioned deficiencies in Milewski.

Furthermore, Lynn does not teach the features of means for playing the tone or the announcement through the second network element if the second network element is able to play the tone or announcement as well as attempting means for attempting to

locate a third network element that is able to play the tone or announcement if the second network element is not able to play the tone or announcement.

Lynn discloses the following:

In accordance with yet another aspect of the present invention, an announcement system for playing recorded audio messages comprises a storage device for storing a plurality of recorded audio messages, an audio output device for playing selected ones of the recorded audio messages, and a control device coupled to the storage device and to the audio output device for selecting individual ones of the recorded audio messages for playing by the audio output device. A microphone is coupled to the audio output device for allowing a live announcement to be made using the audio output device, and an interface circuit is connected between the microphone and the control device for inhibiting the playing of a recorded audio message when the microphone is in use.

However, there is no mention of network elements being used. Rather, all of the steps in Lynn are performed at the automated announcement system 10, which is shown in FIG. 1.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 10 (and its corresponding dependant claims 11-18) under 35 U.S.C. §103 are respectfully requested.

5. Claim 11

Dependent claim 11 is separately patentable as well. Claim 11 adds that the first network element 22 comprises a call session control function or CSCF. The CSCF is shown in FIG. 1 and described in paragraphs [0053] to [0054] of the specification.

The Office Action alleges that Milewski teaches that the first element comprises a call session control function (referencing FIG. 1). Applicants note, however, that no such call session control function is shown in FIG. 1 nor described in Milewski. Indeed, since Milewski relates to an integrated services network 120 and to the Public Switched

Telephone Network (PSTN) 130 that is not surprising. Paragraph [0053] of the specification describes some of the functions of the CSCF:

The CSCF 22 supports and controls multimedia sessions. The CSCF 22 invites elements such as the MGCF 26 and the MRFC 32 to call sessions to control the establishment and maintenance of bearer paths for call sessions by adding, modifying or deleting appropriate bearer paths for respective call sessions. The CSCF 22 is the signaling entity for call session control. It manages sessions by using SIP and/or other appropriate call/session establishment protocols, and it provides features and services and coordinates with other network elements for session control, service control and resource allocation.

Accordingly, favorable reconsideration and withdrawal of the rejection of claim 11 under 35 U.S.C. §103 are respectfully requested.

6. Claim 13

Dependent claim 13 is separately patentable as well. Claim 13 adds that the third network element 30 comprises a multimedia resource function processor (or MRFP). The MRFP is shown in FIG. 1 and described, for example, in paragraphs [0054] and [0057] of the specification.

The Office Action alleges that Milewski teaches that the first element comprises a multimedia resource function processor (referencing column 3, line 47, to column 4, line 7). Applicants note, however, that no such multimedia resource function processor is described in Milewski. Indeed, since Milewski relates to an integrated services network 120 and to the Public Switched Telephone Network (PSTN) 130 that is not surprising. The called party's PC 155 cannot function as an MFRP. Paragraph [0057] of the specification describes some of the functions of the MRFP:

The MGW 24 and the MRFP 30 include various types of resources, such as: (1) DSP (digital signal processing) resources, which provide conversion from one payload

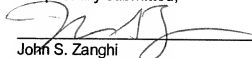
type to another and are responsible for providing tones and announcements, echo cancellation, and silence suppression; (2) IP resources, which are essentially IP terminations within the MGW 24 and MRFP 30 function and are referred to generally as ephemeral terminations; (3) ATM resources, which are essentially ATM terminations within the MGW 24 function and are referred to generally as ephemeral terminations; and (4) TDM resources, which are essentially TDM terminations within the MGW 24 function and are referred to generally as physical terminations.

Accordingly, favorable reconsideration and withdrawal of the rejection of claim 13 under 35 U.S.C. §103 are respectfully requested.

CONCLUSION

For all of the reasons discussed above, it is respectfully submitted that the rejections are in error and that claims 1-18 are in condition for allowance. For all of the above reasons, Appellants respectfully request this Honorable Board to reverse the rejections of claims 1-18.

Respectfully submitted,



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APPENDICES

VIII. CLAIMS APPENDIX

Claims involved in the Appeal are as follows:

1. (Previously Presented) In a multimedia communications network having a plurality of network elements, a method of assigning responsibility for playing tones and announcements to a network element, the method comprising:

receiving a call from a caller to a subscriber at a first network element, as part of the call a tone or an announcement needs to be played to the subscriber;

determining whether a second network element is able to play the tone or the announcement;

playing the tone or the announcement through the second network element, if the second network element is able to play the tone or announcement;

attempting to locate a third network element that is able to play the tone or the announcement, if the second network element is not able to play the tone or the announcement; and

playing the tone or the announcement through the third network element, if the third network element is located.

2. (Original) The method defined in claim 1, wherein the first network element comprises a call session control function.

3. (Original) The method defined in claim 1, wherein the second network element comprises an originating media gateway.

4. (Original) The method defined in claim 1, wherein the third network element comprises a multimedia resource function processor.

5. (Original) The method defined in claim 2, wherein the second network element comprises an originating media gateway.

6. (Original) The method defined in claim 5, wherein the third network element comprises a multimedia resource function processor.

7. (Previously Presented) The method defined in claim 1, further comprising:

receiving data associated with the second network element and the third network element; and

using the data in determining where to play the tone or the announcement.

8. (Original) The method defined in claim 7, wherein the data includes at least one of the load levels of the second and third network elements, the digital signal processing resources available at the second and third network elements, the internet protocol resources available at the second and third network elements, the time division multiplex resources available at the second and third network elements, the asynchronous transfer mode resources available at the second and third network elements, and the proximity of the third network element to the subscriber's location in the network.

9. (Original) The method defined in claim 8, wherein the first network element comprises a call session control function, the second network element comprises an originating media gateway, and the third network element comprises a multimedia resource function processor.

10. (Previously Presented) In a multimedia telecommunications network having a plurality of network elements, a system for assigning responsibility for playing tones and announcements to a network element, the system comprising:

a first network element for receiving a call from a caller to a subscriber, as part of the call a tone or an announcement needs to be played to the subscriber;

determining means for determining whether a second network element is able to play the tone or the announcement;

means for playing the request through the second network element, if the second network element is able to play the tone or the announcement;

attempting means for attempting to locate a third network element that is able to play the tone or the announcement, if the second network element is not able to play the tone or the announcement; and

means for playing the tone or the announcement through the third network element, if the third network element is located.

11. (Original) The system defined in claim 10, wherein the first network element comprises a call session control function.

12. (Original) The system defined in claim 10, wherein the second network element comprises an originating media gateway.

13. (Original) The system defined in claim 10, wherein the third network element comprises a multimedia resource function processor.

14. (Original) The system defined in claim 11, wherein the second network element comprises an originating media gateway.

15. (Original) The system defined in claim 14, wherein the third network element comprises a multimedia resource function processor.

16. (Previously Presented) The system defined in claim 10, further comprising:

receiving means for receiving data associated with the second network element and the third network element; and

using the data in determining where to play the tone or the announcement.

17. (Original) The system defined in claim 16, wherein the data includes at least one of the load levels of the second and third network elements, the digital signal processing resources available at the second and third network elements, the internet protocol resources available at the second and third network elements, the time division multiplex resources available at the second and third network elements, the asynchronous transfer mode resources available at the second and third network

elements, and the proximity of the third network element to the subscriber's location in the network.

18. (Original) The system defined in claim 17, wherein the first network element comprises a call session control function, the second network element comprises an originating media gateway, and the third network element comprises a multimedia resource function processor.

IX. EVIDENCE APPENDIX

NONE

X. RELATED PROCEEDINGS APPENDIX

NONE